

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 Case 1:10-cv-06005-RWS

5 - - - - -x
6 ADRIAN SCHOOLCRAFT,

7 Plaintiff,

8 -against-

9 THE CITY OF NEW YORK, DEPUTY CHIEF
10 MICHAEL MARINO, Tax Id. 873220,
11 Individually and in his Official
12 Capacity, ASSISTANT CHIEF Patrol
13 Borough Brooklyn NORTH GERALD NELSON,
14 Tax Id. 912370, Individually and in his
15 official Capacity, DEPUTY INSPECTOR
16 STEVEN MAURIELLO, Tax Id. 895117,
17 individually and in his Official
18 Capacity, CAPTAIN THEODORE LAUTERBORN,
19 Tax Id. 897840, Individually and in his
20 Official Capacity, LIEUTENANT WILLIAM
21 GOUGH, Tax Id. 919124, Individually and
22 in his Official Capacity, SGT.
23 FREDERICK SAWYER, Shield No. 2576,
24 Individually and in his Official
25 Capacity, SERGEANT KURT DUNCAN, Shield
No. 2483, Individually and in his
Official Capacity, LIEUTENANT
CHRISTOPHER BROSCART, Tax Id. 915354,
Individually and in his Official
Capacity, LIEUTENANT TIMOTHY CAUGHEY,
Tax Id. 885374, Individually and in his
Official Capacity, SERGEANT SHANTEL
JAMES, Shield No. 3004, Individually
and in her Official Capacity,
LIEUTENANT THOMAS HANLEY, Tax Id.
879761, Individually and in his
Official Capacity, CAPTAIN TIMOTHY
TRAINER, Tax Id. 899922, Individually
and in his Official Capacity,
(Caption continued on following page.)

1
2 CAPTION: (continued)

3 SERGEANT SONDRRA WILSON, Shield No.
4 5172, Individually and in her Official
5 Capacity, SERGEANT ROBERT W. O'HARE,
6 Tax Id. 916960, Individually and in his
7 Official Capacity, SERGEANT RICHARD
8 WALE, Shield No. 3099 and P.O.'s "JOE
9 DOE" # 1-50, Individually and in their
10 Official Capacity (the name John Doe
11 being fictitious, as the true names are
12 presently unknown), (collectively
13 referred to as "NYPD defendants"), FDNY
14 LIEUTENANT ELISE HANLON, individually
15 and in her Official Capacity as a
lieutenant with the New York City Fire
Department, JAMAICA HOSPITAL MEDICAL
CENTER, DR. ISAK ISAKOV, Individually
and in his Official Capacity, DR.
LILIAN ALDANA-BERNIER, Individually and
in her Official Capacity and JAMAICA
HOSPITAL MEDICAL CENTER EMPLOYEE'S
"JOHN DOE" # 1-50, Individually and in
their Official Capacity (the name John
Doe being fictitious, as the true names
are presently unknown),

Defendants.

- - - - - x

111 Broadway
New York, New York
October 8, 2013
10:17 a.m.

19 DEPOSITION of MICHAEL MARINO, held
20 at the above time and place, taken
21 before Al-Furquan Baker, a Shorthand
22 Reporter and Notary Public of the State
23 of New York, pursuant to the Federal
24 Rules of Civil Procedure, Order and
25 stipulations between Counsel.

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APPEARANCES:

LAW OFFICES OF NATHANIEL B. SMITH
Attorneys for Plaintiff
111 Broadway
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BY: NATHANIEL B. SMITH, ESQ.

NYC LAW DEPARTMENT
CORPORATION COUNSEL
Attorneys for Chief Michael Marino
and All City Defendants
100 Church Street
New York, New York 10007

BY: SUZANNA PUBLICKER METTHAM, ESQ.

CALLAN KOSTER BRADY & BRENNAN, LLP
Attorneys for Defendant Lilian
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BY: MEREDITH B. BORG, ESQ.

(Continued on following page.)

1
2 APPEARANCES: (Continued)
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11 New York, New York 10017
12 BY: BRIAN OSTERMAN, ESQ.
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15 IVONE DEVINE & JENSEN, LLP
Attorneys for Dr. Isak Isakov
16 2001 Marcus Avenue
Lake Success, New York 11042
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18 BY: BRIAN E. LEE, ESQ.
19
20

21 A L S O P R E S E N T :
22

23 MAGDALENA BAUZA
24 JOHN LENIR
25

1
2 STIPULATIONS
3

4 IT IS HEREBY STIPULATED AND AGREED,
5 by and among counsel for the respective
6 parties hereto, that the filing,
7 sealing and certification of the within
8 deposition shall be and the same are
9 hereby waived;

10 IT IS FURTHER STIPULATED AND AGREED
11 that all objections, except as to form
12 of the question, shall be reserved to
13 the time of the trial;

14 IT IS FURTHER STIPULATED AND AGREED
15 that the within deposition may be
16 signed before any Notary Public with
17 the same force and effect as if signed
18 and sworn to before the Court.
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21 * * *
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25

1 M. Marino

2 MR. SMITH: Okay.

3 So we're on the record. It's
4 10:20.

5 We're beginning the
6 deposition of Chief Michael Marino.
7 It's being videotaped, and the
8 court reporter is taking down the
9 testimony. And it's being
10 videotaped at 111 Broadway, Suite
11 Number 1305, October 8, 2013.

12 M I C H A E L M A R I N O,
13 the Witness herein, having first
14 been duly sworn by the Notary
15 Public, was examined and testified
16 as follows:

17 EXAMINATION BY

18 MR. SMITH:

19 Q. Good morning, chief.

20 How are you?

21 A. Good morning, counselor.

22 I'm fine.

23 Q. I know from reviewing some of
24 the documents that you have some
25 familiarity with this process.

Page 7

1 M. Marino

2 I just want to make sure that
3 there's some ground rules that we talk
4 about and are understood as we go
5 forward. Okay.

6 A. Yes.

7 Q. The first thing is, and as
8 I'm sure aware of it, it's important
9 for you to let me ask my whole question
10 and then think about what the answer is
11 and then answer the question because
12 the court reporter is taking down
13 everything I say and everything that
14 you say.

15 And if we talk on top of each
16 other, it makes it hard for the court
17 reporter to take down the whole
18 question and the whole answer.

19 Okay?

20 A. Yes, sir.

21 Q. The other thing I would ask
22 is if there is anything about my
23 questions that are unclear, please let
24 me know.

25 Okay?

Page 8

1 M. Marino

2 A. Yes, sir.

3 Q. You're here under oath. And
4 if you answer my questions, the record
5 will assume and I will assume that you
6 understand my question. And so I just
7 want to remind you that if there is
8 anything unclear or vague, please let
9 me know and I will try to rephrase it.

10 Okay?

11 A. Yes, sir.

12 Q. You understand that you are a
13 defendant in a lawsuit; is that
14 correct?

15 A. I do.

16 Q. And you understand that that
17 lawsuit is brought by Adrian
18 Schoolcraft against you and various
19 other members of the New York City
20 Police Department, right?

21 A. I do.

22 Q. And are you represented by
23 counsel here today?

24 A. I am.

25 Q. Who?

1 M. Marino
2 would just note that we have been
3 on the record for at this point for
4 almost exactly six hours and
5 40 minutes at this point.

6 MR. LEE: Do you mind if I
7 ask just a couple of questions of
8 the witness.

9 MR. SMITH: I'm not agreeing
10 with that characterization of the
11 number of hours on the record.

12 Go ahead.

13 You can ask whatever you
14 want.

15 EXAMINATION BY

16 MR. LEE:

17 Q. Chief, did you ever go to
18 Jamaica Hospital on the evening of
19 October 31, 2009?

20 A. Absolutely not.

21 Q. Did you ever speak with any
22 hospital personnel on October 31, 2009?

23 A. Absolutely not.

24 Q. Did you ever speak to any
25 hospital personnel in the week after

Page 411

1 M. Marino

2 October 31, 2009?

3 A. Absolutely not.

4 Q. Did you ever speak to any
5 doctors who treated Officer Schoolcraft
6 at Jamaica Hospital during the week
7 after October 31, 2009?

8 A. Absolutely not.

9 Q. Did you directed any EMS
10 personnel, paramedics or NYPD employees
11 to say anything to the people at
12 Jamaica Hospital concerning
13 Schoolcraft's condition?

14 A. Absolutely not.

15 [Continued on the next page
16 to allow for signature line and
17 jurat.]

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LAUTERBORN

Page 1

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UNITED STATES DISTRICT COURT

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SOUTHERN DISTRICT OF NEW YORK

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ADRIAN SCHOOLCRAFT,

6

Plaintiff,

7

-against-

8

9

THE CITY OF NEW YORK, DEPUTY CHIEF MICHAEL

10

MARINO, Tax ID. 873220, Individually and in

11

his Official Capacity, ASSISTANT CHIEF

12

PATROL BOROUGH BROOKLYN NORTH GERALD

13

NELSON, Tax Id. 912370, Individually and in

14

his Official Capacity, DEPUTY INSPECTOR

15

STEVEN MAURIELLO, Tax Id. 895117,

16

Individually and in his Official Capacity,

17

CAPTAIN THEODORE LAUTERBORN, Tax Id.

18

897840, Individually and in his Official

19

Capacity, LIEUTENANT WILLIAM GOUGH, Tax Id.

20

919124, Individually and in his Official

21

Capacity, ST. FREDERICK SAWYER, Shield No.

22

2567, Individually and in his Official

23

Capacity, SERGEANT KURT DUNCAN Shield No.

24

2583, Individually and in his Official

25

Capacity, LIEUTENANT CHRISTOPHER BROSCART,

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212-267-6868

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516-608-2400

1
2 Tax Id. 915354, Individually and in his
3 Official Capacity, LIEUTENANT TIMOTHY
4 CAUGHEY, Tax Id. 885374, Individually and
5 in his Official Capacity, SERGEANT SHANTEL
6 JAMES, Shield No. 3004, Individually and in
7 his Official Capacity, and P.O.'s "JOHN DOE"
8 #1-50, Individually and in their Official
9 Capacity, (the name John Doe being
10 fictitious, as the true names are presently
11 unknown) (collectively referred to as "NYPD
12 Defendants"), JAMAICA HOSPITAL MEDICAL
13 CENTER, DR. ISAK ISAKOV, Individually and
14 in his Official Capacity, DR. LILLIAN
15 ALDANA-BERNIER, Individually and in her
16 Official Capacity, and JAMAICA HOSPITAL
17 MEDICAL CENTER EMPLOYEE'S "JOHN DOE" #1-50,
18 Individually and in their Official
19 Capacity, (the name John Doe being
20 fictitious, as the true names are presently
21 unknown),

22 Defendants.

23 -----

24 111 Broadway
25 New York, New York

LAUTERBORN

Page 3

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November 7, 2013

3

10:10 A.M.

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5

VIDEO DEPOSITION of THEODORE

6

LAUTERBORN, the Defendant in the

7

above-entitled action, held at the above

8

time and place, taken before Dawn Miller, a

9

Notary Public of the State of New York,

10

pursuant to court order and stipulations

11

between Counsel.

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LAUTERBORN

Page 4

1 A P P E A R A N C E S

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4 111 Broadway

5 New York, New York 10006

6 BY: NATHANIEL B. SMITH, ESQ.

7

8 ALSO PRESENT: JOHN LENOIR, ESQ.

9 MAGDALENA BAUZA, VIDEOGRAPHER

10

11

12

13

14 MICHAEL CARDOZO, ESQ. - CORPORATION COUNSEL

15 NEW YORK CITY LAW DEPARTMENT

16 Attorneys for Defendants THEODORE

17 LAUTERBORN and ALL CITY DEFENDANTS

18 100 Church Street

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20 BY: SUZANNA PUBLICKER METTHAM, ASST.

21 CORPORATION COUNSEL

22 RYAN G. SHAFFER, ASST. CORPORATION

23 COUNSEL

24 FILE NO.: 2010-033074/CONTROL # SSS08994

25

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25 BY: MATTHEW J. KOSTER, ESQ.

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A P P E A R A N C E S

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ESQS.

Attorneys for Defendant DEPUTY INSPECTOR
STEVEN MAURIELLO

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BY: WALTER A. KRETZ, ESQ.

FILE NO.: 2010-033074

S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED, by and among the Attorneys for the respective parties hereto that filing and sealing be and the same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED that all objections except as to form of the question, shall be reserved to the time of trial.

IT IS FURTHER STIPULATED AND AGREED that the within examination may be signed and sworn to before any notary public with the same force and effect as though signed and sworn to before this Court.

T H E O D O R E L A U T E R B O R N ,
having been first duly sworn by Dawn Miller, a Notary Public within and for the State of New York, was examined and testified as follows:

MR. SMITH: On the record, it is 10:10. It is November 7th 2013.
We are at my offices at 111 Broadway,

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T. LAUTERBORN

New York, New York, Suite 1306.

We are here today for the deposition of Captain Lauterborn and the deposition is being videotaped as well as we have a court reporter here.

MS. METTHAM: Before we start I'd like to put a couple of stipulations, as we stated about the video recording, the video must be focused on Captain Lauterborn without anyone else on camera, no zooming in or out, no panning. Discussion of Attorneys' Eyes Only are confidential materials and must be separately recorded as the transcript must also be separately bound.

I would also just request a copy of the transcript for Captain Lauterborn to review pursuant to the 30E1 Procedure.

MR. SMITH: All of those decisions are the courts. This is being taken pursuant to order,

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pursuant to the Federal procedure.

Good morning, Captain.

THE WITNESS: Good morning.

MR. SMITH: My name is
Nathaniel Smith. I represent Adrian
Schoolcraft in the lawsuit you're one
of the defendants in. I assume you're
familiar with the existence of the
lawsuit, right?

THE WITNESS: Yes.

MR. SMITH: Have you ever been
deposed before?

THE WITNESS: I believe it was
one other time.

MR. SMITH: You recognize that
you're under oath right now, right?

THE WITNESS: Yes.

MR. SMITH: Because of the
oath, it's important that if you have
any questions or if anything that I
say to you or ask is unclear, that you
let me know, okay?

THE WITNESS: Sure.

MR. SMITH: Because if I ask

1
2 you a question and you answer the
3 question, since you're under oath,
4 it's going to appear that you're
5 speaking under oath and you're
6 understanding the question. It's
7 important, at the threshold, just to
8 be clear, that if you have any
9 questions, you let me know, okay?

10 THE WITNESS: Absolutely.

11 EXAMINATION BY

12 MR. SMITH:

13 Q. State your name and address for
14 the record, please.

15 A. Theodore Lauterborn, One Police
16 Plaza, New York, New York 10038.

17 Q. Where are you, currently,
18 working?

19 A. I, currently, work in Brooklyn
20 South Narcotics.

21 Q. What's your position or title?

22 A. I'm Captain of the group.

23 Q. What group?

24 A. Group Number 1 covers three
25 commands.

1
2 hours now. Your time is done. If any
3 of the other defendants have questions
4 --

5 MR. SMITH: You're terminating
6 my examination right now?

7 MS. METTHAM: Yeah, you went
8 for seven hours on the record and --

9 MR. SMITH: I have got some
10 more questions for the witness. I'm
11 not done.

12 MS. METTHAM: Okay.

13 MR. LEE: I have about five
14 questions.

15 MR. SMITH: Your terminating
16 my examination?

17 MS. METTHAM: You used the
18 seven hours that were available to
19 you.

20 MR. SMITH: I will continue my
21 examination on another day.

22 EXAMINATION CONDUCTED BY

23 MR. LEE:

24 MR. LEE: Good evening. I
25 represent one of the doctors who

1

2

treated the plaintiff at Jamaica

3

Hospital, Dr. Isakov. I have a few

4

questions for you.

5

Q. At anytime on October 31 or

6

thereafter, did you speak to any hospital

7

personnel at anytime?

8

A. No, I did not.

9

Q. Did you speak with any doctors or

10

nurses from Jamaica Hospital at anytime?

11

A. No, I did not.

12

Q. Did you ever instruct any NYPD

13

employees to tell people at Jamaica

14

Hospital anything?

15

MR. LEE: Bad question. Let

16

me withdraw it.

17

Q. Did you ever instruct any NYPD

18

personnel what to say to hospital personnel

19

when they got there?

20

A. No, I did not.

21

Q. Did you ever speak with Dr.

22

Isakov at anytime?

23

A. No, I did not.

24

MR. LEE: Nothing further.

25

MS. METTHAM: I have a few

Page 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

ADRIAN SCHOOLCRAFT,

Plaintiff,

Index No.

vs.

10 Civ 6005 (RWS)

CITY OF NEW YORK, et al.,

Defendants.

-----X

VOLUME II

CONTINUED DEPOSITION OF TIMOTHY CAUGHEY

New York, New York

Monday, December 9, 2013

Reported by:

Diane Buchanan

JOB NO. 1779274

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Page 2

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December 9, 2013

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2:47 p.m.

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14

Continued Deposition of TIMOTHY

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16

CAUGHEY, held at the Law Offices of

17

18

Nathaniel B. Smith, 111 Broadway, New

19

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York, New York 10006, pursuant to

21

22

Notice, before Diane Buchanan, a Notary

23

24

Public of the State of New York.

25

Page 3

1 A P P E A R A N C E S:

2

3 LAW OFFICE OF NATHANIEL B. SMITH

4 Attorneys for Plaintiff

5 111 Broadway

6 New York, New York 10006

7 BY: NATHANIEL B. SMITH, ESQ.

8 JOHN LENOIR, ESQ.

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11 Corporation Counsel of the City of New

12 York

13 100 Church Street

14 New York, New York 10007

15 BY: RYAN SHAFFER, ESQ.

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19 Attorneys for Jamaica Hospital Center

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